

Virginia Division of Consolidated Laboratory Services
ENVIRONMENTAL LABORATORY CERTIFICATION PROGRAM
GUIDANCE DOCUMENT
SUSPENSION OF CERTIFICATION
(1VAC30-45)

Revised November 4, 2014

The Division of Consolidated Laboratory Services (DCLS) provides an opportunity for suspension of certification of an environmental laboratory prior to decertification.

Suspension is the temporary removal of a laboratory's certification and an interim step before DCLS proceeds with decertification. Suspension allows a laboratory the time to correct deficiencies or an area of non-compliance with the requirements of 1VAC30-45 during a period not to exceed six months or the period of certification, whichever is longer.

This guidance explains:

- when suspension of certification is applicable,
- the process DCLS will use to suspend a laboratory,
- the laboratory's responsibilities when its certification has been suspended, and
- the laboratory's certification status following the suspension period.

Reasons for Suspension

DCLS may suspend a laboratory's certification in part or in total for the following reasons:

1. Failure to complete proficiency testing studies and maintain a history of at least two successful proficiency testing studies for each affected certified field of certification out of the three most recent proficiency testing studies as required by 1VAC30-45, Part II, Article 3. [1VAC30-45-100 B 2]
2. Failure to notify DCLS of any changes in key certification criteria as set forth in 1VAC30-45-90. [1VAC30-45-100 B 7]
3. Failure to maintain a quality system as required by 1VAC30-45, Part II, Article 4. [1VAC30-45-100 B 3]
4. Failure of laboratory to employ staff that meets the personnel qualifications for education, training and experience as required by 1VAC30-45, Part II, Article 1. [1VAC30-45-100 B 4]

Process to Suspend Certification

- When VELAP determines that there is cause to suspend a laboratory, VELAP will send notification to the laboratory stating DCLS's intent to suspend due to determination that the laboratory has failed to meet the requirements of 1VAC30-45 for one or more of the reasons listed above.

- The notification will request the laboratory to notify VELAP in writing and provide documentation supporting the laboratory's position if the laboratory believes VELAP is incorrect in its determination within thirty (30) days. This opportunity for a laboratory's feedback to correct errors or omissions by VELAP assures due process before any regulatory action is taken.
- The notification will state that the laboratory is required to take corrective action whenever a failure occurs and to document the corrective action. The notification will require the laboratory to provide DCLS with documentation, upon request or at the next on-site assessment, of the corrective action taken with regard to its failure to meet a requirement of 1VAC30-45.
- The notification will state what the laboratory must do to restore its certification status and avoid suspension and the time allowed to do so.
- VELAP may allow the laboratory up to 60 days to correct the problem for which it may have its certification suspended.
- VELAP will set a date between thirty (30) and sixty (60) days from the notification to the laboratory as the date on which to provide the DCLS Director with a recommendation for suspension .
- If the laboratory does not correct its deficiencies within the stated period, the DCLS Director shall suspend the laboratory's certification in part or in total.
- VELAP will notify the laboratory should suspension occur by providing a revised certificate. VELAP also will notify the Department of Environmental Quality (DEQ) should suspension occur.
- The laboratory may provide information demonstrating why suspension is not warranted in accordance with the regulation referenced in the DCLS letter. If such information is not provided prior to the suspension date, the laboratory accepts the decision to suspend in accordance with 1VAC30-45.

Responsibility of the Laboratory When its Certification Status has been Suspended

When DCLS suspends a laboratory's certification, the following applies to the laboratory for the duration of the suspension period:

- The laboratory cannot continue to analyze samples or report analysis results for the suspended Fields of Certification in order to report data for compliance purposes to DEQ.
- The laboratory must subcontract its testing for the suspended Fields of Certification to a commercial laboratory holding Virginia Environmental Laboratory Certification Program (VELAP) certification for those Fields of Certification.

Certification Status Following the Suspension Period

- The laboratory's certification status will be reinstated when the laboratory demonstrates to DCLS that it complies with the requirements set out in 1VAC30-45.
- A suspended laboratory will not have to reapply for certification if the cause for suspension is corrected within the term of suspension.
- If the laboratory fails to correct the cause(s) for suspension within the term of suspension, DCLS shall decertify the laboratory in total or in part.

Right of Due Process

The laboratory has the right to due process as set forth in 1VAC30-45-110 and in accordance with the Administrative Process Act (§2.2-4000 *et seq* of the *Code of Virginia*).